

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

SHAVONTAE DANIELS,

Plaintiff,

v.

Case No. 18-CV-1575

**CAPTAIN TRITT AND
C.O. SMELCER,**

Defendants.

ORDER

Plaintiff Shavontae Daniels, a state prisoner who is representing himself, is proceeding against defendants Captain Tritt and C.O. Smelcer on allegations they failed to respond appropriately to his threats of self-harm. The defendants filed a motion for summary judgment on the grounds that Daniels failed to exhaust administrative remedies, which is required by the Prisoner Litigation Reform Act (PLRA). 42 U.S.C. § 1997e(a). That motion is fully briefed.

Daniels recently filed a motion to dismiss. (Docket No. 30.) In it, he captions the case Shavontae Daniels v. Smelcer, *et al.*, and asks the court to “dismiss this claim” and to “dismiss Daniels v. Smelcer” without prejudice. (*Id.*) The court understands Daniels to be moving to dismiss this case without prejudice. Both defendants have moved for summary judgment on the same basis. Nothing in

Daniels's opposition to the defendants' motion indicates that he believes he exhausted his administrative remedies against Tritt but not Smelcer. (ECF No. 22.)


Therefore, the court will grant Daniels's motion to dismiss this case without prejudice. If Daniels did not intend to dismiss the whole case, he must inform the court within 14 days. Based on the dismissal, the court will also deny as moot the defendants' motion for summary judgment.

IT IS HEREBY ORDERED that Daniels's motion to dismiss (Docket No. 30) is **GRANTED**. The case is **DISMISSED WITHOUT PREJUDICE**. If Daniels did not intend to dismiss the case in its entirety, he has **14 days** to inform the court.

IT IS FURTHER ORDERED that the defendants' motion for summary judgment (ECF No. 12) is **DENIED AS MOOT**.

The Clerk of Court is directed to enter judgment accordingly.

Dated at Milwaukee, Wisconsin this 25th day of July, 2019.


WILLIAM E. DUFFIN
U.S. Magistrate Judge